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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ROST, ANDREW J

ART UNIT

PAPER NUMBER

3753

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/783,906	PARSONS ET AL.	
	Examiner	Art Unit	
	Andrew J. Rost	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on telephone interviews on 12/18/06, 1/5/07.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16,23-29 and 34-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16,23-29 and 34-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>20070105</u>                             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application  |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                           |

### DETAILED ACTION

1. This action is in response to the amendment filed on 10/16/2006. Claims 1, 2, 10, 15, 23, 24 and 28 have been amended. Claims 37-44 have been added. Claims 17-22 and 30-33 have been cancelled. Presently, claims 1-16, 23-29 and 34-44 are pending.
2. The election/restriction requirement involving claims 25-27 has been withdrawn and the examination of all examined claims is as follows.

### *Drawings*

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the filter must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Allowable Subject Matter***

4. The indicated allowability of claim 10 is withdrawn in view of the newly discovered reference(s) to Spear (1,518,942). Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-16, 29(23), 29(24), 36 and 39-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said external cover including at least two cover parts separately removable" in lines 9-10. It is unclear as to how the at least two cover parts are separately removable. It appears that the main cover cannot be removed without also removing the top cover and the front cover and it appears that the front cover cannot be removed without also at least partially removing the top cover. Therefore, it is unclear as to how there can be at least two cover parts that are separately removable.

Claim 1 recites the limitation "said external cover being attachable with respect to said valve body in a manner also removably attaching said control module" in lines 10-11. It is unclear as to what manner is being used to provide the external cover being attachable to the valve body that is also attaching the control module. It appears that the external cover is able to be removed from the valve body while the control module remains fixed to the valve body (Fig. 2). Therefore, it is unclear as to what manner is being referred.

Claims 2 recites the limitation "said external cover including at least a main cover body and a top cover separately removable" in lines 9-10. It is unclear as to how the at least a main cover body and a top cover are separately removable. It appears that the main cover cannot be removed without also removing the top cover. Therefore, it is unclear as to how there can be at least a main cover body and a top cover that are separately removable. Claim 10 makes a similar recitation in lines 10-11.

Claim 2 recites the limitation "said external cover being attachable with respect to said valve body in a manner also removably attaching said control module" in lines 10-11. It is unclear as to what manner is being used to provide the external cover being attachable to the valve body that is also attaching the control module. It appears that the external cover is able to be removed from the valve body while the control module remains fixed to the valve body (Fig. 2). Therefore, it is unclear as to what manner is being referred. Claim 10 makes a similar recitation in lines 11-12.

Claims 29(23) and 29(24) recite the limitation "said pressure cap" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 36 is indicated as being dependent from claim 32, a previously cancelled claim. It appears from the structure being claimed that claim 36 should depend from claim 35 and will be handled as such.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 3, 13(1), 14(1), 15(1) and 16(1) are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson (5,244,179).

Regarding claim 1, Wilson discloses a valve body (10) having an inlet (12), an outlet (14) and a valve seat (38), a valve member (combination of diaphragm 22 and piston screw 44, piston disc 42) that is controlled by a pilot chamber (30), and an external cover having at least a main cover body (62) and a top cover (60) and the external cover covers a control module in a housing (54) which houses batteries and an infrared sensor (col. 3, lines 26-29).

In regards claim 3, Wilson discloses an addition front cover being a sensor window (61).

In regards to claims 13(1) and 14 (1), Wilson discloses the use of a diaphragm (22) and a piston (piston screw 44 and piston disc 42).

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In regards to claims 15(1) and 16(1), Wilson discloses the piston having a central passage (48) and a pilot cap (26) and a bypass orifice (28) in the diaphragm.

9. Claims 2, 4, 5, 8, 13(2), 14(2), 15(2) and 16(2) are rejected under 35 U.S.C. 102(b) as being anticipated by Parsons et al. (5,125,621).

Regarding claim 2, Parsons et al. disclose a valve assembly having a valve body having an inlet, an outlet and valve seat, a valve member (diaphragm and piston arrangement, 24a-d), an external cover having a main cover body (54), a front cover (portion with opening 64) and a top cover (14) with the top cover being separately removable from the other covers to allow access to a battery holder (60) and sensor assembly (62) while the pressure in a pilot chamber (26) is maintained.

In regards to claim 4, Parsons et al. disclose the main cover body provides an anchoring and thus rigidity to the remaining cover pieces.

In regards to claim 5, Parsons et al. disclose the front cover having a sensor window (window is opening 64).

In regards to claim 8, Parsons et al. disclose a top cover that is threaded to the front cover and has a raised portion in the middle that facilitates the removal of the top cover.

In regards to claims 13(2) and 14(2), Parsons et al. disclose a piston and diaphragm assembly (24a-d).

In regards to claims 15(2) and 16(2), Parsons et al. disclose the piston and diaphragm assembly having a central opening (36) and the diaphragm having a bypass orifice (32).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. in view of Lopez-Torres, Jr. (6,243,885).

Parsons et al. disclose a valve assembly having a valve body, a valve member, an external cover and a control module. Parsons et al. do not disclose the sensor in the control module to be an optical sensor. However, Lopez-Torres, Jr. discloses the use of optical sensors in an automatic flush valve to be old and well known in the art (col. 4, lines 25-32). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an optical sensor in place of the sensor of Parsons et al. as taught by Lopez-Torres, Jr. as the use of optical sensors in automatic flush valves is old and well known in the art.

12. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. in view of Lopez-Torres, Jr. and further in view of Kunkel (5,281,808).



Parsons et al. in view of Lopez-Torres, Jr. disclose a valve assembly having a valve body, a valve member, an external cover and a control module with an optical sensor. The modified Parsons et al. reference does not disclose the valve assembly to be constructed to adjust detection sensitivity of the sensor. However, Kunkel teaches an sensor for a urinal that re-adjusts the detection sensitivity of the sensor during a case of interval ageing processes including when no object is detected in order to operate the sensor with little energy (col. 3, lines 1-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the sensor of the modified Parsons et al. reference with a means to adjust the sensitivity of the sensor as taught by Kunkel in order to conserve energy.

13. Claims 9, 10, 23, 29(23), 34(23) are rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. in view of Spear (1,518,942).

Regarding claims 9, 10 and 23, Parsons et al. disclose a valve assembly having a valve body having an inlet, an outlet and valve seat, a valve member (diaphragm and piston arrangement, 24a-d), an external cover having a main cover body (54), a front cover (portion with opening 64) and a top cover (14) with the top cover being separately removable from the other covers to allow access to a battery holder (60) and sensor assembly (62) while the pressure in a pilot chamber (26) is maintained. Parsons et al. do not disclose the attachment of the cover pieces to the pilot cap by at least one screw. However, Spear teaches the use of screw to attach a variety of cover pieces to a pilot cap and valve body to be old and well known in the art to fasten various pieces

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together. Therefore, it would have been obvious to one of ordinary skill in the art to attach the cover pieces of Parsons et al. to the pilot cap and valve body as taught by Spear in order to secure the external pieces together.

In regards to claims 29(23) and 34(23), Parsons et al. disclose a bleed passage (32) in the diaphragm and the diaphragm being sealable by an isolated actuator (52).

In regards claims 41 and 42, Parsons et al. disclose a diaphragm and piston arrangement (24a-d).

14. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. in view of Johnson (6,499,152).

Parsons et al. disclose a valve assembly having a valve body having an inlet, an outlet and valve seat, a valve member (diaphragm and piston arrangement, 24a-d), an external cover having a main cover body (54), a front cover (portion with opening 64) and a top cover (14) with the top cover being separately removable from the other covers to allow access to a battery holder (60) and sensor assembly (62) while the pressure in a pilot chamber (26) is maintained. Parsons et al. do not disclose the use of a button as a manual trigger for the flush cycle. However, Johnson discloses the use of a manually operated flush override for a an automatic flush valve in order to initiate a normal flush operation and override the automatic system (col. 6, lines 1-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the automatic valve of Parsons with a manually operated flush

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override as taught by Johnson in order to provide a way for a user to initiate a normal flush operation and override the automatic system.

15. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. in view of Johnson and further in view of Durliat (5,975,370).

Parsons et al. in view of Johnson disclose a valve assembly having a valve body having an inlet, an outlet and valve seat, a valve member (diaphragm and piston arrangement, 24a-d), an external cover having a main cover body (54); a front cover (portion with opening 64) and a top cover (14) with the top cover being separately removable from the other covers to allow access to a battery holder (60) and sensor assembly (62) while the pressure in a pilot chamber (26) is maintained with a manually operated flush override. The modified Parsons et al. reference does not disclose the use of a removable element. However, Durliat teaches the placement of a removable element over a push button for a pump that holds the actuator down toward the valve body and is removed before user operation of the actuator and indicates if the product has been tampered (col. 2, lines 1-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a removable element to the valve assembly of the modified Parsons et al. reference to maintain the push button operator in a depressed position until the valve assembly is in a position to be use by a user as taught by Durliat in order to prevent tampering with the valve assembly.

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16. Claims 24, 29(24), 34(24) is rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. in view of Kunkel.

Regarding claim 24, Parsons et al. disclose a valve assembly having a valve body, a valve member, an external cover and a control module. Parsons et al. do not disclose the valve assembly to be constructed to adjust detection sensitivity of the sensor. However, Kunkel teaches an sensor for a urinal that re-adjusts the detection sensitivity of the sensor during a case of interval ageing processes including when no object is detected in order to operate the sensor with little energy (col. 3, lines 1-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the sensor of Parsons et al. with a means to adjust the sensitivity of the sensor as taught by Kunkel in order to conserve energy.

In regards to claims 29(24) and 34(24), Parsons et al. disclose a bleed passage (32) in the diaphragm and the diaphragm being sealable by an isolated actuator (52).

17. Claims 25(23), 26(23) and 27(23) are rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. in view of Spear and further in view of Wilson.

Parsons et al. in view of Spear disclose a valve assembly having a valve body having an inlet, an outlet and valve seat, a valve member (diaphragm and piston arrangement, 24a-d), an external cover having a main cover body (54), a front cover (portion with opening 64) and a top cover (14) with the top cover being separately removable from the other covers to allow access to a battery holder (60) and sensor assembly (62) while the pressure in a pilot chamber (26) is maintained and the cover

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pieces are held together by at least one screw. The modified Parsons et al. reference does not disclose the use of an infrared sensor. Wilson teaches the use of an infrared sensor that can detect a presence (motion) in order to operate a automatic flush valve. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the sensor of the modified Parsons et al. reference with the infrared sensor as taught by Wilson in order to provide an additional sensor means for an automatic sensor.

18. Claims 25(24), 26(24) and 27(24) are rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. in view of Kunkel and further Wilson.

Parsons et al. in view of Kunkel disclose a valve assembly having a valve body, a valve member, an external cover and a control module with the sensor being adjustable. The modified Parsons et al. reference does not disclose the use of an infrared sensor. Wilson teaches the use of an infrared sensor that can detect a presence (motion) in order to operate a automatic flush valve. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the sensor of the modified Parsons et al. reference with the infrared sensor as taught by Wilson in order to provide an additional sensor means for an automatic sensor.

19. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. in view of Kunkel and further in view of Spear.

Parsons et al. in view of Kunkel disclose a valve assembly having a valve body, a valve member, an external cover and a control module with the sensor being adjustable. The modified Parsons et al. reference does not disclose the attachment of the cover pieces to the pilot cap by at least one screw. However, Spear teaches the use of screw to attach a variety of cover pieces to a pilot cap and valve body to be old and well known in the art to fasten various pieces together. Therefore, it would have been obvious to one of ordinary skill in the art to attach the cover pieces of the modified Parsons et al. reference to the pilot cap and valve body as taught by Spear in order to secure the external pieces together.

20. Claims 35(23) and 36(23) are rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. in view of Spear and further in view of Parsons (6,871,835).

Parsons et al. in view of Spear disclose a valve assembly having a valve body having an inlet, an outlet and valve seat, a valve member (diaphragm and piston arrangement, 24a-d), an external cover having a main cover body (54), a front cover (portion with opening 64) and a top cover (14) with the top cover being separately removable from the other covers to allow access to a battery holder (60) and sensor assembly (62) while the pressure in a pilot chamber (26) is maintained and the cover pieces are held together by at least one screw. The modified Parsons et al. reference does not disclose the use of a filter attached to the diaphragm. However, Parsons ('835) teaches the placement of a filter on the diaphragm to prevent any dirt entrained in

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the feed water from clogging the passages of the pilot valve assembly (col. 4, lines 51-54). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the valve assembly of the modified Parsons et al. reference by adding a filter as taught by Parsons in order to prevent any dirt entrained in the feed water from clogging the passages of the pilot valve assembly.

21. Claims 35(24) and 36(24) are rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons in view of Kunkel and further in view of Parsons.

Parsons et al. in view of Kunkel disclose a valve assembly having a valve body, a valve member, an external cover and a control module with the sensor being adjustable. The modified Parsons et al. reference does not disclose the use of a filter attached to the diaphragm. However, Parsons ('835) teaches the placement of a filter on the diaphragm to prevent any dirt entrained in the feed water from clogging the passages of the pilot valve assembly (col. 4, lines 51-54). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the valve assembly of the modified Parsons et al. reference by adding a filter as taught by Parsons in order to prevent any dirt entrained in the feed water from clogging the passages of the pilot valve assembly.

22. Claims 37(23) and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. in view of Spear and further in view of Johnson.

Parsons et al. in view of Spear disclose a valve assembly having a valve body having an inlet, an outlet and valve seat, a valve member (diaphragm and piston arrangement, 24a-d), an external cover having a main cover body (54), a front cover (portion with opening 64) and a top cover (14) with the top cover being separately removable from the other covers to allow access to a battery holder (60) and sensor assembly (62) while the pressure in a pilot chamber (26) is maintained and the cover pieces are held together by at least one screw. The modified Parsons et al. reference does not disclose the use of a button as a manual trigger for the flush cycle. However, Johnson discloses the use of a manually operated flush override for a an automatic flush valve in order to initiate a normal flush operation and override the automatic system (col. 6, lines 1-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the automatic valve of the modified Parsons et al. reference with a manually operated flush override as taught by Johnson in order to provide a way for a user to initiate a normal flush operation and override the automatic system.

23. Claim 37(24) is rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. in view of Kunkel and further in view of Johnson.

Parsons et al. in view of Kunkel disclose a valve assembly having a valve body, a valve member, an external cover and a control module with the sensor being adjustable. The modified Parsons et al. reference does not disclose the use of a button as a manual trigger for the flush cycle. However, Johnson discloses the use of a manually operated



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flush override for a an automatic flush valve in order to initiate a normal flush operation and override the automatic system (col. 6, lines 1-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the automatic valve of the modified Parsons et al. reference with a manually operated flush override as taught by Johnson in order to provide a way for a user to initiate a normal flush operation and override the automatic system.

24. Claims 38(23) and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. in view of Spear further in view of Johnson and further in view of Durliat.

Parsons et al. in view of Spear and further in view of Johnson disclose a valve assembly having a valve body having an inlet, an outlet and valve seat, a valve member (diaphragm and piston arrangement, 24a-d), an external cover having a main cover body (54), a front cover (portion with opening 64) and a top cover (14) with the top cover being separately removable from the other covers to allow access to a battery holder (60) and sensor assembly (62) while the pressure in a pilot chamber (26) is maintained and the cover pieces are held together by at least one screw with a manually operated flush override. The modified Parsons et al. reference does not disclose the use of a removable element. However, Durliat teaches the placement of a removable element over a push button for a pump that holds the actuator down toward the valve body and is removed before user operation of the actuator and indicates if the product has been tampered (col. 2, lines 1-9). Therefore, it would have been obvious to one of ordinary

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skill in the art at the time the invention was made to provide a removable element to the valve assembly of the modified Parsons et al. reference to maintain the push button operator in a depressed position until the valve assembly is in a position to be use by a user as taught by Durliat in order to prevent tampering with the valve assembly.

25. Claim 38(24) is rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. in view of Kunkel further in view of Johnson and further in view of Durliat.

Parsons et al. in view of Kunkel and further in view of Johnson disclose a valve assembly having a valve body, a valve member, an external cover and a control module with the sensor being adjustable with a manually operated flush override. The modified Parsons et al. reference does not disclose the use of a removable element. However, Durliat teaches the placement of a removable element over a push button for a pump that holds the actuator down toward the valve body and is removed before user operation of the actuator and indicates if the product has been tampered (col. 2, lines 1-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a removable element to the valve assembly of the modified Parsons et al. reference to maintain the push button operator in a depressed position until the valve assembly is in a position to be use by a user as taught by Durliat in order to prevent tampering with the valve assembly.

26. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson in view of Johnson.

Wilson discloses a valve body (10) having an inlet (12), an outlet (14) and a valve seat (38), a valve member (combination of diaphragm 22 and piston screw 44, piston disc 42) that is controlled by a pilot chamber (30), and an external cover having at least a main cover body (62) and a top cover (60) and the external cover covers a control module in a housing (54) which houses batteries and an infrared sensor (col. 3, lines 26-29). Wilson does not disclose the use of a button as a manual trigger for the flush cycle. However, Johnson discloses the use of a manually operated flush override for an automatic flush valve in order to initiate a normal flush operation and override the automatic system (col. 6, lines 1-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the automatic valve of Wilson with a manually operated flush override as taught by Johnson in order to provide a way for a user to initiate a normal flush operation and override the automatic system.

27. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson in view of Johnson and further in view of Durliat.

Wilson in view of Johnson discloses a valve body (10) having an inlet (12), an outlet (14) and a valve seat (38), a valve member (combination of diaphragm 22 and piston screw 44, piston disc 42) that is controlled by a pilot chamber (30), and an external cover having at least a main cover body (62) and a top cover (60) and the external cover covers a control module in a housing (54) which houses batteries and an infrared sensor (col. 3, lines 26-29) with a manually operated flush override. The

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modified Wilson reference does not disclose the use of a removable element. However, Durliat teaches the placement of a removable element over a push button for a pump that holds the actuator down toward the valve body and is removed before user operation of the actuator and indicates if the product has been tampered (col. 2, lines 1-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a removable element to the valve assembly of the modified Wilson reference to maintain the push button operator in a depressed position until the valve assembly is in a position to be use by a user as taught by Durliat in order to prevent tampering with the valve assembly.

### ***Response to Arguments***

28. Applicant's arguments with respect to claims 1-16, 23-29 and 34-36 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tsai (6,019,343) and Hwang et al. (6,659,420) discloses a manual and automatic flush valve. Morse et al. (4,965,448) disclose a calibration and sensitivity adjustment for an infrared sensor.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Rost whose telephone number is 571-272-

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2711. The examiner can normally be reached on 7:00 - 4:30 M-Th and 7:00 - 12:00 Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on 571-272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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AJR, ASR 1/5/07



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